

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 534 of 1999

in

SPECIAL CIVIL APPLICATION No 8577 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANTILAL B BAROT

Versus

PRINCIPAL CONSERVATOR OF FORESTS

Appearance:

MR MUKUL SINHA for Appellant

NOTICE SERVED BY DS for Respondent No. 1, 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 11/05/99

ORAL JUDGEMENT

Admitted. Mr.Patel for Patel Advocates appears and waives service of notice of admission for the respondents. In the facts and circumstances of the case,

the matter is taken up for final hearing.

2. This appeal is filed against an interlocutory order passed by the Learned Single Judge in SCA No. 8577 of 1998 on 1.4.99. The main matter is admitted and awaits final hearing. Interim relief was also prayed against the apprehended action of reversion. The Learned Single Judge was prima facie satisfied about the contentions raised in the petition and hence rule is issued. In last two paras, the Learned Single Judge observed as under:-

"However, in the present case, the respondents have failed to explain whether the provisional gradation list published on 13th February, 1998, has been prepared in consonance with the above referred rules or not. Except the bare statement made in the affidavit, it is not demonstrated that the said gradation list has been prepared in consonance with the above referred Rules.

By way of interim relief, it is, therefore, directed that the concerned respondent shall consider the objections lodged against the provisional gradation list and finalise the gradation list on or before 31st May, 1999. Status-quo ordered to be maintained under order dated 8th October, 1998, shall continue to operate till the preparation and publication of the final gradation list."

3. Mr. Sinha, Learned Counsel for the appellant contended that once a gradation list is finalised immediate action will be taken. If it will be against the appellant and will be implemented, irreparable loss would be caused to him. He, therefore, submitted that when the petition is admitted and is pending, appropriate direction ought to have been issued by the learned Single Judge so that taking of any action by the authorities may not adversely affect the appellant particularly when summer vacation intervenes.

4. We see considerable force in the said argument. The Learned Single Judge has ordered that status quo shall continue to operate till preparation and publication of the final gradation list. It was also observed that the list would be finalised on or before 31.5.99. In the facts and circumstances of the case, in our opinion, ends of justice would be served if we direct that after the finalisation of gradation list as per the direction of the Learned Single Judge, if any action will be taken

prejudicely affecting the appellants, it would not be implemented for a period of one month from the receipt of the order by the appellants. The appeal is accordingly partly allowed to the above extent. In the facts and circumstances of the case, no orders as to costs.

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